**THE HON'BLE SRI JUSTICE BILAL NAZKI**

**AND**

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**WRIT PETITION NO.3425 OF 2007**

**Dated 10-04-2007**

Between:

Mirza Khalid Baig …Petitioner

And

The Special Director (Appeals)
And four others …Respondents

**THE HON'BLE SRI JUSTICE BILAL NAZKI**

**AND**

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**WRIT PETITION NO.3425 OF 2007**

**O R D E R** *(Per the Hon'ble Sri Justice Bilal Nazki):*

Heard learned counsel for the parties.

The petitioner has filed an appeal under Section 19 of the Foreign Exchange Management Act, 1999 (for short "the Act"), against an order passed by the Special Director (Appeals)-the first respondent, before the Appellate Tribunal for Foreign Exchange, New Delhi-the fourth respondent. Along with the appeal, he filed an application to dispense with the depositing of the amount, which is required to be deposited once an appeal is filed.

The first proviso to Section 19 (1) of the Act lays down that special appeal can be filed against an order passed in appeal by Special Director levying a penalty, but deposit of amount of penalty should be made at the time of filing of the appeal. Second proviso to Section 19(1) of the Act gives a power to the Appellate Tribunal to dispense with the deposit of such penalty amount subject to such conditions as it may deem fit so as to safeguard the realization of the penalty amount.

The Tribunal while considering the case of the petitioner

dispensed with the requirement of depositing of the amount on the condition that the petitioner should deposit an amount equivalent to 60% of the penalty amount, within 60 days. We do not see any illegality in the order passed by the Tribunal.

Learned counsel for the petitioner submits that the order passed by the primary authority and the appellate authority are against rules of natural justice and the copies of the statements relied upon to impose the penalty were not even give to him.

These are matters, which have to be gone into by the Tribunal in the Special Appeal and cannot be considered at this stage. *Prima facie*, we feel that the petitioner has received huge amounts from a foreign country and distributed them in Hyderabad. Therefore, we do not find any ground to interfere in the matter.

The writ petition is accordingly dismissed. No order as to costs.

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(Bilal Nazki,J)

Dated 10th April, 2007

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(Nooty Ramamohana Rao,J)

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